

BEFORE THE  
TENNESSEE STATE BOARD OF EQUALIZATION

In Re: Victory Ranch )  
District 1, Map 68, Control Map 68, Parcel 7.00, )  
Special Interest 000 & Parcel 7.00P, Special Interest 001 ) Hardeman County  
Exemption )

INITIAL DECISION AND ORDER

Statement of the Case

These are appeals from denials of applications for exemption of the subject real and personal property from ad valorem taxation. The applications were received by the State Board of Equalization ("State Board") on August 7, 2003. By letter dated March 7, 2005, (former) State Board staff attorney Regan Cothron notified the applicant of the denials on the following grounds:

Although the camp is open to churches and some other non-profit or educational organizations, those organization [sic] pay for the use of the property and plan and organize most of their own activities. The applicant provide [sic] minimal religious activities for the users of the property. The property is also available for use by for-profit entities and individuals which are not exempt uses of the property by any means. The summer camp operated by the applicant is costly and there are no scholarships available for those that cannot afford the fees.

Victory Ranch, Inc. ("VRI"), the applicant, timely appealed the staff attorney's initial determination to the State Board pursuant to Tenn. Code Ann. section 67-5-212(b)(2). The undersigned administrative judge conducted a hearing of this matter on October 27, 2005 in Jackson. VRI was represented by its executive director, Dennis Smith. Hardeman County Assessor of Property Norma appeared on her own behalf.

Findings of Fact and Conclusions of Law

VRI, a Tennessee nonprofit corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, was founded by Dennis Smith in 2002.<sup>1</sup> According to its promotional brochure, VRI's mission is:

To offer fun and adventurous year-round opportunities for spiritual growth, community service and leadership training in an expertly designed and executed setting, guided by a professional staff of seasoned educators and experienced activity directors.

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<sup>1</sup>Originally known as "The Wilderness Camp," VRI was chartered as a religious corporation on March 12, 2002. The corporate name was changed to Victory Ranch later that year.

Mr. Smith, the athletic director at Presbyterian Day School in Memphis, had considerable experience in teaching, coaching, and the conduct of day camps. He envisioned an overnight camp that would serve as both a (non-denominational) Christian and inner-city ministry. On November 22, 2002, with the support of two major benefactors, VRI purchased the real property in question. This property encompassed approximately 493 acres of farmland on Mecklinburg Road in Bolivar.<sup>2</sup>

Construction of the state-of-the-art camp and retreat center – dubbed “Victory Ranch” – commenced in December, 2002 and is still in progress.<sup>3</sup> By the end of May, 2003, an outdoor chapel and 20-stall barn had been completed. Four lodges were ready for occupancy about one year later, when VRI’s first summer camp session began. Among the other improvements, mostly clustered around the middle of the site, are a dining hall; general store; post office; as well as cabins and mobile homes (for the temporary housing of staff).

Victory Ranch affords abundant recreational opportunities, such as hiking; biking; swimming; and horseback riding. A ropes course and 50-foot climbing tower are prominently featured attractions.

VRI derives the bulk of its operating income from the summer camp program, which is open to all kids and runs seven days a week from June through August.<sup>4</sup> During the remainder of the year, Victory Ranch is devoted to retreats for churches, schools, youth groups, and corporations. These retreats started in March of 2003, before overnight accommodations became available. Mr. Smith testified that less than 10% of the users of the facility in 2004-05 were for-profit entities. Revenue from those companies as well as nonprofit organizations, he emphasized, helps VRI to defray its expenses.

VRI’s currently has eight full-time employees on its staff, including an ordained minister who oversees the small-group Bible studies and devotionals that are a daily part of the organization’s summer program. Like Mr. Smith, most of his full-time personnel have strong backgrounds in sports, recreation, and camps; and some have advanced degrees in religious education. Mr. Smith considered their salaries to be comparable to those in the teaching profession. During the peak season, VRI also employs some 40 high school and college students on a part-time basis. Many of VRI’s staff members are local residents.

As shown by the attached fee schedule in effect in December, 2003, regular admission to Victory Ranch is not cheap. Mr. Smith attributed the relatively high rates to such factors as the quality of construction and equipment; the cost of compliance with modern building and

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<sup>2</sup>VRI has since acquired additional land, bringing the total area of Victory Ranch to 542.9 acres. For appraisal purposes, the Assessor has treated the entire acreage as a single parcel (identified above).

<sup>3</sup>VRI is in the midst of an \$8.5 million capital campaign that is intended to fund completion of the camp/retreat center and pay down the organization’s \$3.5 million construction debt.

<sup>4</sup>Mr. Smith and his family live at Victory Ranch for the duration of the summer camp program.



safety codes; and the highly qualified staff. He expected VRI to achieve its goal of becoming a self-sustaining organization in 2006.

Mr. Smith took issue with the staff attorney's assertion that "there are no scholarships available for those that cannot afford the fees." In fact, he declared, VRI does maintain a scholarship program (called "*The Sky is the Limit*") which enables underprivileged children to visit Victory Ranch free of charge. To substantiate this claim, Mr. Smith introduced a copy of a letter (dated October 25, 2005) from Stephen M. Carpenter, headmaster of the nonprofit New Hope Christian Academy in Memphis. VRI has agreed to make Victory Ranch available to the faculty and predominantly low-income students of that elementary school for day trips, overnight retreats, and camps at mutually convenient times.

In a letter accompanying the appeal forms, Mr. Smith stressed that:

Any group staying at the ranch requires facilitation of some kind by the ranch staff. While a very small number of groups may come and use only the lodges for meetings and planning, their visit still requires ranch staff to provide meals, instructions, and clean up. However, the vast majority of visiting groups take advantage of the outdoor activities available at the ranch. No ranch activity is without some level of facilitation by the ranch staff even if it is just a hayride. Use of any of the outdoor adventure activities requires considerable facilitation by the staff, and lifeguards must man the pool even though it is only 3.5 feet deep. While some groups may plan and organize their own activities, they can't even get on the property without a staff member to open the gate.

Article II, section 28 of the Tennessee Constitution permits the legislature to exempt from taxation property which is "held and used for purposes purely religious, charitable, scientific, literary, or educational." Under this authority, the General Assembly has decreed that:

There shall be exempt from property taxation the real and personal property, or any part thereof, owned by any religious, charitable, scientific, or nonprofit educational institution which is occupied and used by such institution or its officers purely and exclusively for carrying out thereupon one (1) or more of the purposes for which the institution was created or exists...; provided..., that no property shall be totally exempted, nor shall any portion thereof be pro rata exempted, unless such property or portion thereof is **actually used** purely and exclusively for religious, charitable, scientific or educational purposes. [Emphasis added.]

Tenn. Code Ann. section 67-5-212(a)(1)(A).

The legislature further provided, however, that:

The real property of any such institution not so used exclusively for carrying out thereupon one (1) or more of such purposes, but leased or otherwise used for other purposes, **whether the income received therefrom be used for one (1) or more of such purposes or not**, shall not be exempt...[Emphasis added.]

Tenn. Code Ann. section 67-5-212(a)(3).

In 2004, the legislature amended Tenn. Code Ann. section 67-5-212 by adding the following new subsection:

- (o) **Land not necessary to support exempt structures or site improvements associated with exempt structures, including land used for recreation, retreats or sanctuaries, shall not be eligible for exemption beyond a maximum of one hundred (100) acres per county for each religious, charitable, scientific or nonprofit educational institution qualified for exemption pursuant to this section.** For purposes of applying this limit, land owned by an exempt institution shall be aggregated with land owned by related exempt institutions having common ownership or control. Land in excess of the limit may be designated by the county for open space classification pursuant to section 67-5-1007 as an alternative to exemption. [Emphasis added.]

Although this amendment did not take effect until May 24, 2004, it applies to "applications pending or under appeal to the State Board of Equalization" on that date as well as those filed thereafter. Acts 2004, ch. 732, section 3.

State Board Rule 0600-8-.02 establishes a rebuttable presumption that land owned by a qualifying institution is in actual use for exempt purposes if it underlies "exempt structures or paving," or if "the total land area claimed for exemption, including that which is underlying exempt structures, is **five acres or less.**" [Emphasis added.] But paragraph (5) of that rule provides (in relevant part) that "[l]and held solely for future construction or other future uses does not qualify for exemption."

In this state, contrary to most other jurisdictions, property tax exemptions are liberally construed in favor of qualifying institutions. See, e.g., Youth Programs, Inc. v. State Board of Equalization, 170 S.W.3d 92 (Tenn. Ct. App. 2004). Nonetheless, as the party appealing from the initial determination on its applications for exemption, Victory Ranch has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(2).

The administrative judge acknowledges some degree of skepticism regarding so-called "Christian" camps which seemingly offer many of the same services and experiences as their secular counterparts at competitive prices. Activities cannot legitimately be characterized as "religious" merely because they are held under the auspices of persons or institutions that profess certain religious convictions. Surely, for example, a private corporation that dispatches personnel to a retreat at Victory Ranch is not primarily interested in enhancing their spiritual growth. VRI undoubtedly grasps this reality in planning and hosting such a retreat.

That said, both church-affiliated and non-denominational camps and conference/retreat centers have historically fared well in the pursuit of property tax exemptions. See, e.g., The Diocese of West Tennessee (Shelby County, Final Decision and Order, January 9, 1992) (portion of 134-acre conference and retreat center, including manager's residence, exempted); National Association of Christian Athletes (Rhea County, Final Decision and Order, July 10, 2000) (69-acre camp exempted except for certain rental cabins and permanent residences); CBM Ministries of East TN Inc. (Carter County, Initial Decision and Order, August 6, 1996) (most of 47-acre camp exempted except for rental dwellings). In none of these cases has the State Board deemed the charging of fees to be a disqualifying factor.



The record in this proceeding indicates that VRI is no less dedicated to religious purposes than some of the other owner/operators of "Christian" camps which have been granted total or partial exemption by the State Board. Apart from merely calling itself a religious corporation in its charter, VRI has demonstrated a spiritual orientation by its actions – as in the employment of a full-time chaplain; the inclusion of regular Bible studies and worship services in its summer camp program; and the outreach to disadvantaged youth. In the opinion of the administrative judge, then, VRI does qualify as a "religious institution" within the meaning of Tenn. Code Ann. section 67-5-212.<sup>5</sup> This conclusion is not negated by the relatively small percentage of Victory Ranch visitation by corporations and other non-exempt entities.

But to what extent does VRI actually use the property in question "purely and exclusively" for its exempt purposes? That the improvements and personal property at this location are used in furtherance of VRI's mission seems readily apparent. However, as Administrative Judge Helen James observed in Buffalo Mountain Methodist Camp (Washington County, Initial Decision and Order, May 8, 1987):

One of the difficult problems facing the State Board ... is the level of use required to support exemption of camp property. Some portions of the camp property are clearly more actively and intensely used than others. The camp obviously, however, does not want to overuse natural areas and there by [sic] destroy the environment it hopes to promote and protect. On the other hand, society demands that the burden of supplying necessary services such as fire and police protection be borne by all those who avail themselves of such services. (Citation omitted.)

*Id.* at p. 5.

To be sure, this problem has been somewhat alleviated by the recent enactment of the hundred-acre limitation quoted above. Yet seldom is the amount of land "necessary to support exempt structures or site improvements associated with exempt structures" not open to dispute.

Only eight acres on the subject parcel are designated on the official property record card as *improvement sites* for appraisal purposes; however, in keeping with the Tennessee courts' liberal construction of property tax exemptions, a broader conception of "supporting" land is appropriate here. From Mr. Smith's own description of the layout of Victory Ranch in his letter to the State Board dated July 22, 2004, it appears that a total of 50 acres may reasonably be attributed to the various improvements. Under the terms of Tenn. Code Ann. section 67-5-212(o), VRI is also entitled to exemption of 100 additional acres shown to be used sufficiently for camp-related activities.

Tenn. Code Ann. section 67-5-212(b)(3) provides that if an approved (or partially approved) application for exemption is filed after May 20 and more than 30 days after the exempt use of the property in question began, the exemption (or partial exemption) will be effective as of the date of application.

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<sup>5</sup>It is unnecessary to decide whether VRI would also meet the definition of a *charitable institution* in Tenn. Code Ann. section 67-5-212(c).

Order

It is, therefore, ORDERED that the subject improvements, fifty (50) acres of supporting land, and one hundred (100) additional acres of surrounding land shall be exempt from taxation as of August 7, 2003. The tangible personal property used (or held for use) on these premises shall also be tax-exempt as of that date. The remaining acreage on the parcel in question shall be taxable.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order";** or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 6<sup>th</sup> day of January, 2006.



PETE LOESCH  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

cc: Dennis Smith, Executive Director, Victory Ranch  
Norma B. Kirk, Hardeman County Assessor of Property

VICTORY.DOC



# Victory Ranch

## Facilities & Food Only:

Youth	Adult Non-Corporate	Corporate
\$50 per night 1 to 10 free leaders (\$1,500 min. per weekend)	\$55 per night (\$1,500 min. per weekend)	\$100 per night (\$2,500 min per night)

## Packages:

**One Night Adventure Package:** Starting at \$90 per participant (min \$2,000.00)

Arrive Friday Afternoon around 5:00pm

Includes 3 meals

Depart 4:00 pm next day

**Weekend Adventure Package:** Starting at \$150 per participant (min \$3,500.00)

Arrive Friday afternoon around 5:00 pm.

Ranch Style Dinner

Camp Fire

Devotional & Group Activity (ie: Meeting, Skit, Song, Game ect.)

Saturday morning breakfast

Day of adventure (activities customized for each group)

Lunch and Dinner

Devotional

Camp Fire

Group Activity (ie: Meeting, Skit, Song, Game ect.)

Sunday morning breakfast

Chapel

Depart after lunch

**Day of Adventure:** starting at \$50 - \$85 (min \$1,000.00)

9:00am - 4:30pm

Activities & meals are customized for each group

**Adventure Field Trip:** starting at \$10 - \$20 (min \$500.00)

Two to three hours of customized adventure

**Corporate Day Adventure Package:** starting at \$100.00 a day (min 2,500.00)

**Corporate Overnight Adventure Package:** starting at \$1500.00 a day, (min 2,500.00)